

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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HEATH VINCENT FULKERSON,

Plaintiff,

v.

ALLSTATE INSURANCE,

Defendant.

Case No. 3:20-cv-00409-MMD-CLB

ORDER

Pro se Plaintiff Heath Fulkerson filed an application to proceed *in forma pauperis* (ECF No. 1 (“IFP”)), along with a complaint against Defendant Allstate Insurance (“Allstate”) for “property liability and insurance bad faith” (ECF No. 1-1 (“Complaint”)). Plaintiff also filed a motion to submit a complaint (ECF No. 1-2 (“Submit Motion”)). Before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Carla L. Baldwin, recommending the Court grant the IFP application and Submit Motion, and dismiss Plaintiff’s Complaint with prejudice. (ECF No. 3.) Plaintiff had until October 27, 2020, to file an objection to the R&R, but has not done so. The Court will adopt the R&R in full.

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party fails to object to a magistrate judge’s recommendation, the Court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (emphasis in original) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations.”); Fed. R. Civ. P. 72, Advisory Committee Notes (1983)

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1 (providing that the court “need only satisfy itself that there is no clear error on the face of
2 the record in order to accept the recommendation”).

3 Because there is no objection, the Court need not conduct *de novo* review, and is
4 satisfied Judge Baldwin did not clearly err. Here, Judge Baldwin recommends dismissing
5 the Complaint with prejudice as Plaintiff’s claims in this action are “directly related” and
6 “in fact identical” to claims raised in Plaintiff’s other case against Allstate (see Case No.
7 3:20-cv-00399-MMD-CLB). (ECF No. 3 at 4.) The Court agrees with Judge Baldwin.
8 Plaintiff’s Complaint is duplicative and must be dismissed with prejudice. See *Cato v.*
9 *United States*, 70 F.3d 1103, n.2 (9th Cir. 1995) (citation omitted) (stating that “[t]here is
10 no abuse of discretion where a district court dismisses . . . complaint that merely repeats
11 pending or previously litigated claims” and the complaint is dismissed with prejudice).
12 Having reviewed the R&R and the record in this case, the Court will adopt the R&R in full.

13 It is therefore ordered, adjudged, and decreed that Magistrate Judge Carla L.
14 Baldwin’s Report and Recommendation (ECF No. 3) is accepted and adopted in its
15 entirety.


16 It is further ordered that Plaintiff’s application to proceed *in forma pauperis* (ECF
17 No. 1) and motion to submit a complaint (ECF No.1-2) is granted.

18 The Clerk of Court is directed to file Plaintiff’s Complaint (ECF No. 1-1).

19 It is further ordered that Plaintiff’s Complaint (ECF No. 1-1) is dismissed with
20 prejudice.

21 The Clerk of Court is directed to close the case and enter judgement accordingly.

22 DATED THIS 17th Day of November 2020.

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26 MIRANDA M. DU
27 CHIEF UNITED STATES DISTRICT JUDGE
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